

Official Journal of the European Union

L 327



English edition

Legislation

Volume 64

16 September 2021

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2021/1483

of 15 September 2021

imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 11(2) thereof,Having regard to Regulation (EU) 2015/477 of the European Parliament and of the Council of 11 March 2015 on measures that the Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures ⁽²⁾, and in particular Article 1 thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigation and measures in force

- (1) By Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 ⁽³⁾, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China ('PRC') and Taiwan ('the original measures').
- (2) On 11 August 2016, the Commission announced the reopening of the anti-dumping investigation with regard to Taiwan ⁽⁴⁾, pursuant to Article 12 of the Regulation (EU) 2016/1036 ('the basic Regulation'). The anti-absorption investigation in question was terminated on 11 April 2017 without amending the measures in force ⁽⁵⁾.
- (3) The anti-dumping duties currently in force on imports of stainless steel cold-rolled flat products originating in the PRC are at the rate of 24,4 % for the sampled exporting producers, 24,6 % for the non-sampled cooperating companies and a duty rate of 25,3 % for all other companies.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.⁽²⁾ OJ L 83, 27.3.2015, p. 11.⁽³⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan (OJ L 224, 27.8.2015, p. 10).⁽⁴⁾ OJ C 291, 11.8.2016, p. 7.⁽⁵⁾ OJ L 98, 11.4.2017, p. 10.

- (4) The anti-dumping duties currently in force on imports originating in Taiwan are at a rate of 6,8 %. The measures in force apply to all imports of stainless steel cold-rolled flat products originating in Taiwan, with the exception of those produced by Taiwan Chia Far Industrial Factory Co., Ltd. A zero duty rate was originally determined for this company, as no dumping was found.

1.2. Request for an expiry review

- (5) Following the publication of a Notice of impending expiry ⁽⁶⁾, the Commission received a request for a review pursuant to Article 11(2) of 'the basic Regulation.
- (6) The request for review was lodged on 27 May 2020 by the European Steel Association ('Eurofer' or 'the applicant') representing more than 25 % of the total Union production of stainless steel cold-rolled flat products. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury to the Union industry.

1.3. Initiation of an expiry review

- (7) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 25 August 2020 the Commission initiated an expiry review with regard to imports of stainless steel cold-rolled flat products originating in the PRC and Taiwan ('the countries concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the Official Journal of the European Union ⁽⁷⁾ ('the Notice of Initiation').

1.4. Parallel anti-dumping investigation concerning India and Indonesia.

- (8) On 30 September 2020, the Commission initiated an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia, pursuant to Article 5 of the basic Regulation ⁽⁸⁾. That investigation is ongoing.

1.5. Review investigation period and period considered

- (9) The investigation of continuation or recurrence of dumping covered the period from 1 July 2019 to 30 June 2020 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2017 to the end of the review investigation period ('the period considered').

1.6. Interested parties

- (10) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, the known producers in the PRC and Taiwan and the authorities of those countries, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry and invited them to participate.
- (11) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.7. Sampling

- (12) In the Notice of Initiation, the Commission stated that it might sample the interested parties in accordance with Article 17 of the basic Regulation.

⁽⁶⁾ OJ C 405, 2.12.2019, p. 11.

⁽⁷⁾ OJ C 280, 25.8.2020, p. 6.

⁽⁸⁾ OJ C 322, 30.9.2020, p. 17.

1.7.1. *Sampling of Union producers*

- (13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and sales volumes of the product under review, ensuring a good geographical spread. This sample consisted of three Union producers. The sampled Union producers accounted for more than 60 % of the estimated total Union production and around 70 % of the estimated total Union sales volume of the product under review.
- (14) In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. The Commission received no comments on the sample. The sample is representative of the Union industry.

1.7.2. *Sampling of importers*

- (15) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (16) Three unrelated importers made themselves known as interested parties and provided the requested information. In view of the low number of replies received, sampling was not necessary. No comments were made to this decision. The importers were invited to complete a questionnaire.

1.7.3. *Sampling of exporting producers in the countries concerned*

- (17) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC and Taiwan to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union and the Taipei Representative Office in the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (18) One exporting producer from Taiwan came forward, expressing its willingness to participate in the investigation. Given the reduced number of producers that came forward, the Commission considered that sampling was not necessary. The exporting producer in question was requested to complete the questionnaire intended for the exporting producers.
- (19) No producers from the PRC provided the requested information and agreed to be included in the sample. The Commission notified the Mission of the PRC that due to the lack of cooperation from exporting producer in the PRC, it intended to apply Article 18 of the basic Regulation and therefore base its findings on continuation or recurrence of dumping and injury in respect of the PRC on the facts available. No comments were received in response to this notification. Therefore, there was no cooperation from the Chinese producers and the findings with regard to the imports from the PRC are made on the basis of the facts available pursuant to Article 18 of the basic Regulation.

1.8. **Replies to the questionnaire**

- (20) The Commission made the questionnaires for the sampled Union producers, unrelated importers, and exporting producers available on DG Trade's website when the case was initiated. An additional questionnaire was sent to the applicant.
- (21) The Commission also sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (22) Questionnaire replies were received from the three sampled Union producers and Eurofer.
- (23) None of the unrelated importers provided a questionnaire reply.

- (24) No questionnaire reply was received from the exporting producer in Taiwan which had come forward and initially agreed to cooperate. The Commission informed the company concerned that it considered it therefore no longer cooperating and that it would apply Article 18 of the basic Regulation. The Taipei Representative Office in the European Union was also informed of the matter. Neither the company concerned nor the Taipei Representative Office in the European Union reacted to these letters. Therefore, there was no cooperation from the Taiwanese exporting producers, and as in the case of China (see recital (19) above), the findings with regard to continuation or recurrence of dumping and injury in respect of Taiwan are made on the basis of the facts available pursuant to Article 18 of the basic Regulation.

1.9. On spot verification and remote cross-checking

- (25) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation. The Commission instead cross-checked remotely all the information deemed necessary for its determinations in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽⁹⁾.

- (26) The Commission carried out remote crosschecks ('RCC') of the following companies / parties:

Union producers and their association:

- Acciai Speciali Terni S.p.A., Terni, Italy ('AST')
- Aperam Stainless Europe, consisting of Aperam France, La Plaine Saint-Denis Cedex, France and Aperam Belgium, Châtelet and Genk, Belgium ('Aperam')
- Outokumpu Stainless Oy, Tornio, Finland ('OTK')
- Eurofer, Brussels, Belgium.

1.10. Subsequent procedure

- (27) On 2 July 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force regarding imports from the countries concerned. All parties were granted a period within which they could make comments on the disclosure.
- (28) The comments made by a consortium of importers and distributors ('Euranimi' ⁽¹⁰⁾) and two unrelated importers ('LSI' ⁽¹¹⁾ and 'MFT' ⁽¹²⁾) were considered by the Commission and taken into account, where appropriate. All the parties in question also requested and were granted a hearing.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (29) The product under review is the same as in the original investigation, namely flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 ('product under review' or 'SSCR').

⁽⁹⁾ Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).

⁽¹⁰⁾ Association of Non-Integrated Metal Importers and Distributors.

⁽¹¹⁾ LSI Lamiere Speciali Inox S.p.a.

⁽¹²⁾ European Mold & Form Tec S.L.

- (30) In the Union, SSCR is mainly manufactured by integrated producers transforming stainless steel scrap and alloying elements in SSCR after melting, hot rolling and cold rolling. In the PRC and, to an increasing extent, Taiwan, SSCR producers seem to mainly rely on the use of virgin raw materials, which are transformed into nickel pig iron before being melted, hot rolled and cold rolled.
- (31) The product under review is used in a wide range of downstream industries, for example construction and energy equipment, infrastructure, consumer goods, and vehicles.

2.2. Like product

- (32) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review originating in the PRC and Taiwan;
 - the product produced and sold on the domestic markets of the countries concerned;
 - the product produced and sold in the Union by the Union industry.
- (33) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding the product scope

- (34) After final disclosure, Euranimi and the two importers claimed that the Commission extended the product scope by adding to the definition of the product under review certain CN codes which were not covered by the original measures. According to the parties, such extension of the product scope is in violation of Article 11(2) of the basic Regulation.
- (35) The original measures defined the product concerned as follows:

‘The product concerned is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89.’

- (36) In the Note put on the file on the day of initiation ⁽¹³⁾, the Commission explained that certain product types, which have undergone some specific finishing operations after the cold-rolling, essentially surface treatment, are included in the product definition but the corresponding CN codes (7219 90 20, 7219 90 80, 7220 90 20 and 7220 90 80) were erroneously not mentioned in the product definition although the product types covered by these CN codes were part of the original investigation that resulted in the imposition of the measures.
- (37) While most product types that have undergone finishing operations do not fall under the product definition (because they cannot be qualified as ‘not further worked than cold-rolled (cold reduced)’) and therefore are not within the scope of the measures, the product types which have undergone the finishing operations ‘polished’, ‘brushed’ and ‘perforated’ fall under the CN codes 7219 90 20, 7220 90 20, 7219 90 80, and 7220 90 80 sub-category ‘other’ are part of the product scope. These product types fall under the CN sub-category ‘other’ and were part of the original investigation that resulted in the imposition of the measures. The basic physical, technical and chemical characteristics, the production processes apart from some finishing operations, and end-uses of these product types are no different to those that fall under the CN sub-category ‘not further worked than cold-rolled’.
- (38) Therefore, since these additional CN codes have been part of the product concerned in the original investigation and in the current review investigation the Commission clarified the product definition accordingly in the Note mentioned in recital (36) above.

⁽¹³⁾ Saved in the open file under save number t20.00021.

- (39) The product scope of the original investigation was not extended and its definition was not changed but only clarified. It is recalled that CN codes are given for information only and have no binding effect on the tariff classification of the product under review. Therefore, the claim of the parties was rejected.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

- (40) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC or Taiwan.

3.1. The People's Republic of China

3.1.1. Preliminary remarks

- (41) During the period considered, imports of the product under review from the PRC continued, albeit at much lower levels than in the investigation period of the original investigation (i.e. from 1 January 2013 to 31 December 2013). According to Eurostat statistics, imports of SSCR from the PRC accounted for about 0,4 % of the Union market in the review investigation period. In absolute terms imports of SSCR from the PRC were at 14 111 tonnes in the review investigation period compared to 143 420 tonnes during the original investigation.
- (42) As mentioned in recital (19), none of the exporters/producers from the PRC cooperated in the investigation. Thus, the exporting producers failed to submit questionnaire replies, including any data on export prices and costs, domestic prices and costs, consumption of inputs in the production process, manufacturing overheads, capacity, production, investments, etc. Likewise, the GOC and the exporting producers failed to address the evidence on the case file, including the 'Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defense Investigations' ⁽¹⁴⁾ ('the Report').
- (43) Therefore, the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments.
- (44) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to the PRC were based on facts available, in particular the information contained in the request for the expiry review and in the submissions by the interested parties, combined with other sources of information, such as trade statistics on imports and exports (Eurostat and GTA), statistical data from the Chinese tax and custom administration websites ⁽¹⁵⁾, reports of the World Bank and OECD, and independent providers of pricing intelligence, news, data, analysis and conferences for the iron and steel industry.

3.1.2. Continuation of dumping during the review investigation period

3.1.2.1. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation

- (45) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation with regard to this country on the basis of Article 2(6a) of the basic Regulation.

⁽¹⁴⁾ Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.

⁽¹⁵⁾ http://www.gov.cn/zhengce/content/2017-12/01/content_5243734.htm
<http://www.chinatax.gov.cn/n810341/n810755/c3377945/content.html>
http://www.gov.cn:8080/gongbao/content/2019/content_5416183.htm

- (46) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the Government of China ('GOC'). In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation, within 37 days of the date of publication of the Notice of Initiation in the Official Journal of the European Union. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline.
- (47) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Brazil as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in 2(6a)(a) first indent of the basic Regulation.
- (48) On 30 September 2020, the Commission informed interested parties by a note ('the First Note') of the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy that might be used in the production of the product under review. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified possible representative countries (namely Argentina, Brazil, Mexico, Russia, South Africa and Turkey). The Commission received comments on the First Note from the applicant who doubted on the production of stainless steel cold-rolled flat products in Argentina, Mexico, Russia, South Africa, and Turkey.
- (49) On 23 December 2020, the Commission informed the interested parties by a second note ('the Second Note') of the relevant sources it intended to use for the determination of the normal value, with Brazil as the representative country ⁽¹⁶⁾. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profit based on available information from a producer in the representative country - Aperam Inox America do Sul S.A. No comments on the Second Note were received.

3.1.2.2. Normal value

- (50) In recent investigations concerning the steel sector in the PRC ⁽¹⁷⁾, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present. The Commission concluded in this investigation that, based on the evidence available, the application of Article 2(6a) of the basic Regulation was also appropriate.
- (51) In those investigations, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles ⁽¹⁸⁾. In particular, the Commission concluded that in the steel sector, which is the main raw material to produce the product under review, not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the basic Regulation ⁽¹⁹⁾, but the GOC is also in a position to interfere with prices and costs through State presence in

⁽¹⁶⁾ As established in recitals (66) to (76).

⁽¹⁷⁾ Commission Implementing Regulation (EU) 2021/635 of 16 April 2021 imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 132, 19.4.2021, p. 145) and Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan (OJ L 110, 8.4.2020, p. 3).

⁽¹⁸⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 149-150 and Commission Implementing Regulation (EU) 2020/508 recitals 158-159.

⁽¹⁹⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 115-118 and Commission Implementing Regulation (EU) 2020/508 recitals 122-127.

firms in the sense of Article 2(6a)(b), second indent of the basic Regulation ⁽²⁰⁾. The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces ⁽²¹⁾. Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC ⁽²²⁾. In the same vein, the Commission found distortions of wage costs in the steel sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation ⁽²³⁾, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC ⁽²⁴⁾.

- (52) Like in previous investigations concerning the steel sector in the PRC, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the request, as well as in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (53) In addition to the Report, the complaint mentioned that the recent findings in the Regulation imposing provisional AD duties on imports of SSHR from China and elsewhere ⁽²⁵⁾, fully apply to SSCR, as both SSCR and SSHR are essentially similar products, with SSHR being an earlier stage of the SSCR production process. The complaint added that since Chinese SSCR exporters are also producers of SSHR (when integrated) or purchase SSHR locally (re-rollers), all the factors found by the Commission to affect the production and sales of SSHR in China also directly affect the production and sale of SSCR in that country. In this case the request contained information on the distortive effects of the 13th Five Year Steel Plan on the steel industry as well as on the provision in the 13th FYP for Mineral Resources and the 13th FYP for the Non-Ferrous Metal Industry. The complaint underlines steel is a privileged industry in China, which is evidenced by the fact it is included in the Catalogue for Guiding Industry Restructuring and Guiding Opinions on Promoting Cooperation between International Capacity and Equipment Manufacturing. Furthermore, it mentioned the Ministerial Report of the G20 Global Forum on Steel Excess Capacity ('GFSEC'), which identified the following sector-specific subsidies as prospering under the GOC's auspices: preferential financing inconsistent with market-based conditions, equity infusions and conversions inconsistent

⁽²⁰⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 119-122 and Commission Implementing Regulation (EU) 2020/508 recitals 128-132: While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70% of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of SSCR producers and the suppliers of their inputs.

⁽²¹⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 123-129 and Commission Implementing Regulation (EU) 2020/508 recitals 133-138.

⁽²²⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 130-133 and Commission Implementing Regulation (EU) 2020/508 recitals 139-142.

⁽²³⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 134-135 and Commission Implementing Regulation (EU) 2020/508 recitals 143-144.

⁽²⁴⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 136-145 and Commission Implementing Regulation (EU) 2020/508 recitals 145-154.

⁽²⁵⁾ Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan.

with market-based conditions, grants and awards, tax exemptions, reductions and refunds, the provision of goods and services, of stainless steel inputs below market price including ferrous scrap, pig iron, coking coal, nickel and ferrochrome/chromium, and, finally, support to bankrupt companies ⁽²⁶⁾.

- (54) As indicated in recital (42), the GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.
- (55) Like in previous investigations concerning the steel sector in the PRC, the Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (56) Specifically in the steel sector, which is the main raw material to produce SSCR, a substantial degree of ownership by the GOC persists. Many of the largest producers are owned by the State. Some are specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020'. For instance, the Chinese State-owned Shanxi Taiyuan Iron & Steel Co. Ltd. ('Tisco') mentions on its website that it is 'a super iron and steel giant', which 'developed into an extraordinary large-scale iron and steel complex, which is integrated with business of iron mining, iron and steel production, processing, delivery and trading ⁽²⁷⁾'. Baosteel is another major Chinese State-owned enterprise that engages in steel manufacturing and is part of the recently consolidated China Baowu Steel Group Co. Ltd. (formerly Baosteel Group and Wuhan Iron & Steel) ⁽²⁸⁾. While the nominal split between the number of SOEs and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top 10 of the world's largest steel producers, four are SOEs ⁽²⁹⁾. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the GOC set the target in the same year to consolidate 60 % to 70 % of steel production to around ten large-scale enterprises by 2025 ⁽³⁰⁾. This intention has been repeated by the GOC in April 2019, announcing a release of guidelines on steel industry consolidation ⁽³¹⁾. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs ⁽³²⁾. Since there was no cooperation from Chinese exporters of SSCR, the exact ratio of the private and state owned SSCR producers could not be determined. However from the list of the Chinese SSCR producers provided by the complainant, a number are SOEs, including Tisco Shanxi Taigang Stainless Steel Co. Ltd, Baosteel Baoshan Iron and Steel Co. Ltd, Lisco Lianzhong Stainless Steel Corporation, Beihai Chengde Stainless Steel Co. Ltd, Jisco Jiuquan Iron and Steel Group Co. Ltd, Shougang Kaixi Stainless Steel, Baosteel Desheng Stainless Steel and Tangshan Stainless Steel Co. Ltd.
- (57) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the investigation established the existence of personal connections between producers of the product under review and the CCP, such as CCP members among the senior management or members of the board of directors in a number of companies manufacturing SSCR. In the SSCR

⁽²⁶⁾ Global Forum on steel excess capacity, Ministerial Report, 20 September 2018.

⁽²⁷⁾ TISCO, 'Company profile', <http://en.tisco.com.cn/CompanyProfile/20151027095855836705.html> (last viewed 2 March 2020).

⁽²⁸⁾ Baowu, 'Company profile', <http://www.baowugroup.com/en/contents/5273/102759.html> (last viewed 6 May 2021).

⁽²⁹⁾ Report – Chapter 14, p. 358: 51 % private and 49 % SOEs in terms of production and 44 % SOEs and 56 % private companies in terms of capacity.

⁽³⁰⁾ Available at:

www.gov.cn/zhengce/content/2016-02/04/content_5039353.htm (last viewed 6 May 2021); https://policy.cn/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthetra4e (last viewed 6 May 2021), and www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 6 May 2021).

⁽³¹⁾ Available at http://www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 6 May 2021) and http://www.jjckb.cn/2019-04/23/c_137999653.htm (last viewed 6 May 2021).

⁽³²⁾ As was the case of the merger between the private company Rizhao and the SOE Shandong Iron and Steel in 2009. See Beijing steel report, p. 58, and the acquired majority stake of China Baowu Steel Group in Magang Steel in June 2019, see <https://www.ft.com/content/a7c93fae-85bc-11e9-a028-86cea8523dc2> (last viewed 6 May 2021).

sector, the main state owned producing exporters are often the world leading producers of SSHR and SSCR, whether integrated or not. For instance, the Chinese State-owned Shanxi Taiyuan Iron & Steel Co. Ltd. (Tisco) mentions on its website that it is 'a super iron and steel giant as well as leading enterprise in global stainless steel industry', 'the biggest stainless steel enterprise equipped with globally biggest capacity and most up-to-date technology and equipment'. Accordingly, 'Tisco has developed into an extraordinary large-scale iron and steel complex, which is integrated with business of iron mining, iron and steel production, processing, delivery and trading' ⁽³³⁾. Tisco is an example of a SSCR producer where the GOC is present by personal appointments. For example, the appointed Deputy Secretary of the CCP Committee was also nominated the President of TISCO by a decision from the Shanxi Province CCP Committee and Government ⁽³⁴⁾.

- (58) Both public and privately owned enterprises in the SSCR sector are subject to policy supervision and guidance. The following examples illustrate the above trend of an increasing level of intervention by the GOC in the SSCR sector. Many SSCR producers explicitly emphasise party building activities on their websites, have party members in the company management and underline their affiliation to the CCP. The investigation revealed party building activities in a number of SSCR producers, including Tisco, Baosteel and Lisco.

- (59) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the SSCR sector.

- (60) Even though SSCR is a specialised industry and no specific policy documents guiding specifically the development of the SSCR industry as such could be identified during the investigation, the SSCR industry benefits from governmental guidance and intervention concerning the main raw material to manufacture SSCR, namely steel.

- (61) The steel industry is regarded as a key industry by the GOC ⁽³⁵⁾. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level such as the 'Steel Industry Adjustment and Upgrading plan for 2016-2020', valid during the IP period. This Plan stated that the steel industry is 'an important, fundamental sector of the Chinese economy, a national cornerstone' ⁽³⁶⁾. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry ⁽³⁷⁾. The 13th Five-Year Plan on Economic and Social Development ⁽³⁸⁾, applicable during the IP, envisaged support to enterprises producing high-end steel product types ⁽³⁹⁾. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement ⁽⁴⁰⁾. The 'Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)' ⁽⁴¹⁾ ('the Catalogue') lists steel as an encouraged industry.

- (62) As can be seen from the above examples concerning steel, which is an important raw materials to produce SSCR, the GOC further guides the development of the SSCR sector in accordance with a broad range of policy tools and directives and controls virtually every aspect in the development and functioning of the sector. Thus, the SSCR industry benefits from governmental guidance and intervention concerning the main raw materials to manufacture SSCR, namely steel.

⁽³³⁾ TISCO, 'Company profile', <http://en.tisco.com.cn/CompanyProfile/20151027095855836705.html> (last viewed 2 March 2020).

⁽³⁴⁾ See Complaint, page 19, quoting MCI, 'Gao Jianbing appointed as the President of TISCO', 12 October 2018, <https://metals-consulting.com/gao-jianbing-appointed-as-deputy-party-secretary-deputy-chairman-of-the-board-and-the-president-of-tisco/> (last viewed 10 March 2020).

⁽³⁵⁾ Report, Part III, Chapter 14, p. 346 ff.

⁽³⁶⁾ Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

⁽³⁷⁾ Report, Chapter 14, p. 347.

⁽³⁸⁾ The 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016-2020), available at https://en.ndrc.gov.cn/newsrelease_8232/201612/P0201911101481868235378.pdf (last viewed 6 May 2021).

⁽³⁹⁾ Report – Chapter 14, p. 349.

⁽⁴⁰⁾ Report – Chapter 14, p. 352.

⁽⁴¹⁾ Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

- (63) In addition to the above, the SSCR producers are also beneficiaries of state subsidies, which clearly indicates the interest of the state in this sector. During the investigation, the Commission established that a number of SSCR producers benefited from direct state subsidies, including Tisco, Baosteel and Tangsteel.
- (64) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of steel, iron and ferroalloys as the main raw materials used in the manufacturing of SSCR. Such measures impede market forces from operating freely.
- (65) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws according to Article 2(6a)(b), fourth indent of the basic Regulation in the SSCR sector referred to above in recital (51) would not affect the manufacturers of the product under review.
- (66) The SSCR sector is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital (51). Those distortion affect the sector both directly (when producing the product under review or the main inputs), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC) ⁽⁴²⁾.
- (67) Moreover, no evidence was submitted in the present investigation demonstrating that the SSCR sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, as also referred to above in recital (51). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (68) Finally, the Commission recalls that in order to produce SSCR, a number of inputs are needed. When the producers of SSCR purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (69) As a consequence, not only the domestic sales prices of SSCR are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (70) No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.
- (71) In sum, the evidence available showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section.

⁽⁴²⁾ See Commission Implementing Regulation (EU) 2021/635 recitals 134-135 and Commission Implementing Regulation (EU) 2020/508 recitals 143-144.

- (72) At final disclosure the Commission received two submissions from LSI and Euranimi concerning the application of Article 2(6a). LSI and Euranimi both argued that the findings concerning significant distortions are based to a large extent on the findings in the China Report, which however according to LSI and Euranimi lacks the formal and substantive characteristics for being considered a formal European Commission's Report and cannot be used as a means of proof for the purpose of determining the existence of significant distortions. This is because, first, the report is published as a Staff Working Document, which according to LSI and Euranimi is not sufficient to give it a formal character and secondly it was not made public nor updated in accordance with the requirements set out in Article 2(6a) of the basic anti-dumping regulation.
- (73) The Commission recalls that the provisions of Article 2(6a)(c) do not prescribe a specific format in which a country report needs to be published, nor its channel of publication. Therefore the publication of the China report as a staff working document, a type of document which does not require translation into all European languages, nor formal publication in the Official Journal, complies with the relevant rules. The Commission further notes that the report has been publicly available since December 2017 on the Commission's website and thus any interested party has ample opportunity to rebut, supplement or comment on it and the evidence on which it is based. No evidence was provided by LSI or Euranimi, or any other interested party, which would have shown that the report is outdated. In fact, the Report is mostly based on the 13th Five-Year Plans covering years 2016-2020, which were applicable during the IP. Therefore, this argument is rejected.

(a) Representative country

(1) *General remarks*

- (74) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ⁽⁴³⁾;
 - Production of the product under review in that country ⁽⁴⁴⁾;
 - Availability of relevant public data in the representative country;
 - Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.
- (75) As explained in recitals (48) and (49), the Commission issued on 30 September and 23 December 2020 two notes to the file on the sources for the determination of the normal value and production factors (the 'First Note' and the 'Second Note'). In the Second Note, the Commission informed interested parties of its conclusion that Brazil was an appropriate representative country in the present case.

(2) *A level of economic development similar to the PRC*

- (76) In the First Note, the Commission identified Argentina, Brazil, Mexico, Russia, South Africa and Turkey as countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis.
- (77) No comments were received concerning the level of economic development following that note.

⁽⁴³⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

⁽⁴⁴⁾ If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

(3) Production of the product under review in the representative country

- (78) In the First Note, the Commission indicated that production of the product under review was identified in Argentina, Brazil, Mexico, Russia, South Africa and Turkey. However, South Africa was excluded as a potential representative country, since only one producer of the product under review was identified, with no publicly available financial statements for the review investigation period.
- (79) Comments were received from the applicant concerning the production of the product under review in possible representative countries following the First Note. The applicant claimed that companies listed in the First Note with the exception of one company in Brazil do not produce the product under review and submitted detailed explanation for each company. The applicant consequently argued that there is no production of the product under investigation in Argentina, Mexico, Russia and Turkey.
- (80) After analysing and cross-checking where possible the above mentioned information supplied by the applicant the Commission found that companies in Argentina, Mexico, Russia, and Turkey identified in the First Note as potential producers did not produce the product under review during the review investigation period but rather other types of steel products not covered by the current review investigation.
- (81) With regard to South Africa, no companies that produce the product under review with publicly available financial statements could be identified. No comments have been received in that regard.
- (82) Consequently, the Commission no longer considered Argentina, Mexico, Russia, South Africa and Turkey as a possible representative countries. The Commission therefore concluded in the Second Note that Brazil was the only country with a level of economic development similar to the PRC in which there was a production of the product under review during the review investigation period.

(4) Availability of relevant public data in the representative country

- (83) The Commission further verified the availability of the public data in Brazil, and in particular public financial data from the producers of the product under review.
- (84) The Commission looked for SSCR producers with publicly available financial data that could be used to establish undistorted and reasonable amounts for SG&A expenses and profit. The Commission restricted the search to companies with publicly available profit and loss statements for the RIP and that were profitable in this period. Moreover, preference was given to SSCR producers having their financial statements publicly available at a company level rather than at a consolidated level for the respective entire group. Based on the above, one company in Brazil was identified in the Second Note namely Aperam Inox America do Sul S.A.
- (85) Based on the quality and detail of the publicly available financial data available in Brazil, and also considering the availability and representativeness of the benchmarks for factors of production, the Commission considered that Brazil was an appropriate representative country.
- (86) The Commission carefully analysed all relevant data available in the file for the factors of production in Brazil and noted the following:
- The Commission analysed the import statistics of all factors of production listed in the First Note, as updated by the Second Note, and concluded that there were imports of all the factors of production necessary for the production of the product under review in the RIP except nickel (see recital (101)).

- Energy statistics (prices for electricity) for the RIP was readily available in the form of data provided by the company EDP Brazil ⁽⁴⁵⁾;
- Statistics for labour cost were available on the website of the International Labour Organisation ⁽⁴⁶⁾.

- (87) According to Article 2(6a)(a) of the basic Regulation, the constructed normal value shall include an undistorted and reasonable amount for SG&A and for profits. As stated in recital (112), the Commission held that Aperam Inox America do Sul S.A. had publicly available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for SG&A and profits.

(5) Level of social and environmental protection

- (88) Having established that Brazil was an appropriate representative country on the basis of these elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

(6) Conclusion on representative country

- (89) In view of the above analysis, Brazil met all the criteria laid down in Article 2(6a)(a), first indent, of the basic Regulation, in order to be considered as an appropriate representative country. In particular, Brazil had a production of the product under review and a complete set of data available for all factors of production, SG&A and profit.

(b) Sources used to establish undistorted costs

- (90) In the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production in the representative country.
- (91) The Commission further stated that the statistics of the ILO would be used to establish the undistorted costs of labour in the representative country; while national statistics, as referred to in recital (86), would be used to establish undistorted energy costs.
- (92) The Commission included in the calculation a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount, it made use of the financial data of one of the Union producers, namely Aperam Stainless Europe, provided by the applicant (see recital (111)).
- (93) Finally, as stated in the Second Note, the Commission used the financial data from the selected Brazilian company, indicated in recital (112) to establish SG&A costs and profits.

(c) Undistorted costs and benchmarks

- (94) Through the two notes on production factors, the Commission sought to establish a list of factors of production and sources intended to be used for all factors of production such as materials, energy and labour used in the production of the product under review by the producers in the PRC.
- (95) In the absence of cooperation by Chinese exporting producers in the review procedure, the Commission had to rely on the applicant in order to establish the factors of production used in the production of SSCR.

⁽⁴⁵⁾ <https://www.edp.com.br/distribuicao-es/saiba-mais/informativos/tarifas-aplicadas-a-clientes-atendidos-em-alta-e-media-tensao-grupo-a>

⁽⁴⁶⁾ https://www.ilo.org/ilostat/faces/oracle/webcenter/portalapp/pagehierarchy/Page21.jspx?_afLoop=2007202804813928&_afWindowMode=0&_afWindowId=ejmgka3iz_63#!%40%40%3F_afWindowId%3Dejmgka3iz_63%26_afLoop%3D2007202804813928%26_afWindowMode%3D0%26_adf.ctrl-state%3Dejmgka3iz_119

- (96) In the request and the comments to the First Note the applicant highlighted that the production process in China is fundamentally different from the production process in the Union. This is in particular the case in the melting phase, where the Chinese producers rely overwhelmingly on the use of nickel pig iron whereas the Union producers' main feedstock is stainless steel scrap. The applicant urged the Commission to account for this difference in production process and recommended the Commission to calculate the value of nickel pig iron on the basis of the average LME Nickel cash settlement value for 2019 as available from public sources ⁽⁴⁷⁾. Other interested parties did not comment.
- (97) The Commission explained in the Second Note that the calculation of the normal value and the corresponding list of factors of production was based only on the steel grade mostly sold in and exported to the Union according to the information submitted in the request and also taking into account the comments received from the applicant on the first Note. No comments have been received in that regard.
- (98) In the absence of cooperation, the Commission did not have more detailed tariff codes for each factor of production than the 6-digit HS codes, which matched fully with the Brazilian tariff codes.
- (99) Considering all the information submitted by the applicant and the absence of any other comments on the two notes on the sources for the determination of the normal value concerning the factors of production, the following factors of production and tariff codes, have been identified:

Table 1

Factors of production of SSCR

Factor of Production	HS Code	Source of data	Unit undistorted value Euro	Unit
Raw Material				
Carbon scrap	7204 49	GTA	0,38	kg
Stainless steel scrap	7204 21	GTA	1,01	kg
Ferro-chromium containing by weight >4 % of carbon	7202 41	GTA	1,23	kg
Ferro-chromium alloys	7202 41	GTA	1,23	kg
Nickel (see recital (100))	7502 10	International benchmark Westmetall ⁽⁴⁸⁾	13,51	kg
Ferrous Waste and Scrap	7204 49	GTA	0,38	kg
Stainless Steel Waste And Scrap	7204 21	GTA	1,01	kg
Other ferro-silicon alloys	7202 29	GTA	1,54	kg
Labour				
Labour wages in manufacturing sector (see recitals (105) to (107))	[N/A]	ILO	3,85	EUR/hour
Energy				
Electricity (see recitals (108) to (109))	[N/A]	EDP Brasil	81,32	EUR/MWh

⁽⁴⁷⁾ <https://www.westmetall.com/en/home.html>

⁽⁴⁸⁾ https://www.westmetall.com/en/markdaten.php?action=show_table_average&field=LME_Ni_cash#y2019

(1) *Raw materials*

- (100) In order to establish undistorted prices of materials as delivered at the gate of the producer's factory as provided by Article 2(6a)(a), first indent and considering that there were no cooperating producers in the PRC, the Commission used the import prices into the representative country as reported in the GTA database for each material used in the production of SSCR with the exception of nickel.
- (101) Nickel was used to calculate the input values of Ferronickel and Nickel Pig Iron which were not imported in Brazil during the review investigation period and which represent about one third of the ex work normal value. Moreover, the import volume of nickel in Brazil was considered not representative. Therefore, in order to calculate undistorted benchmarks for Ferronickel and Nickel Pig Iron, the following assumptions have been considered in line with the information presented in the request:
- Ferro-nickel was estimated as containing 21,8 % of Nickel and 78,2 % of Iron;
 - Low Nickel Pig Iron was estimated as containing 10 % of Nickel, 85 % of Iron;
 - Iron was assimilated to ferrous waste and scrap; and
 - the remaining chemical elements were not considered.
- (102) This methodology was explained in the Second note (see recital (49)) and no comment was received.
- (103) The import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC. The Commission decided to exclude imports from the PRC into the representative country as it concluded in recital (71) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices.
- (104) Import volumes in the representative country from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and of the Council⁽⁴⁹⁾ were also excluded. Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.
- (105) In order to establish the undistorted price of raw materials, delivered at the gate of the exporting producer's factory as provided by Article 2(6a)(a), first indent of the basic Regulation, the Commission applied an average of import duty in the representative country, at the respective levels. Furthermore, the Commission added domestic transport costs calculated per kg on the basis of information provided by the applicant.

(2) *Labour*

- (106) To establish the benchmark for labour costs, the Commission used the ILO statistics⁽⁵⁰⁾ together with publicly available information on additional labour costs incurred by employers in Brazil⁽⁵¹⁾.
- (107) The ILO statistics provided data on the mean weekly hours actually worked per employed person in the manufacturing sector in Brazil during the RIP⁽⁵²⁾.
- (108) Using that data, the Commission calculated an hourly salary in manufacturing, to which additional labour related costs borne by the employer were added.

⁽⁴⁹⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

⁽⁵⁰⁾ Available at <https://ilostat.ilo.org/data/country-profiles/>

⁽⁵¹⁾ Available at <https://establishbrazil.com/articles/whats-real-cost-employee>
<https://www.jornalcontabil.com.br/quanto-custa-um-funcionario-aprenda-a-calcular/>

<https://thebrazilbusiness.com/article/introduction-to-fgts>

⁽⁵²⁾ Available at https://www.ilo.org/shinyapps/bulkexplorer17/?lang=en&segment=indicator&id=HOW_TEMP_SEX_ECO_NB_A

(3) *Electricity*

- (109) The electricity price charged by one of the largest electricity suppliers in Brazil, the company EDP Brasil, was readily available ⁽⁵³⁾. The information was detailed enough to identify the price of electricity and the price for the use of the distribution system (modalidade tarifaria azul) paid by industrial users.
- (110) It should be noted that in Brazil, the regulatory authority Agência Nacional de Energia Elétrica ⁽⁵⁴⁾ ('ANEEL') obliges the electricity suppliers to increase their tariffs by a certain percentage to regulate the consumption of electricity in the country. ANEEL uses a flag system ⁽⁵⁵⁾ (green, yellow, red 1, red 2) to signal whether the electricity price should remain as proposed by the supplier (green) or increased by 0,01343 BRL/kWh (yellow), 0,04169 BRL/kWh (red 1), or 0,06243 BRL/kWh (red 2). The flags are published by ANEEL on a monthly basis and for the investigation period were readily available on the website of EDP Brazil ⁽⁵⁶⁾. When determining the undistorted costs of electricity, the Commission took into account the flags applied during the investigation period and adjusted the price accordingly.

(d) *Manufacturing overhead costs, SG&A and profits*

- (111) According to Article 2(6a)(a) of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (112) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Further to the factors of production summarised under recital (99) above, manufacturing overhead costs were calculated. In view of the lack of cooperation from Chinese producers, the calculation of these manufacturing overhead costs was based on the ratio of manufacturing overhead divided by the cost of manufacturing reported to produce one tonne of the steel grade mostly produced and sold in the Union. This percentage was applied to the undistorted costs of manufacturing.
- (113) For SG&A and profit, the Commission used the financial data of the Brazilian producer Aperam Inox America do Sul S.A. ⁽⁵⁷⁾. The Commission calculated the percentage of SG&A and profit over the cost of goods sold ('COGS'). Publicly available audited accounts of this company were made available to the interested parties as an attachment to the Second Note.

(e) *Calculation of normal value*

- (114) On the basis of the above, the Commission constructed the normal value for a basic product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (115) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the request on the consumption of each factor of production (raw materials, labour and energy) for the production of the product under review as described in recitals (100) to (109). The Commission multiplied the consumption ratios by the undistorted costs per unit established in Brazil, as described in Section d) above.
- (116) The calculation was done for one basic type of SSCR, i.e. for grade 304; which was the steel grade mostly sold in and exported to the Union, see recital (97).

⁽⁵³⁾ Available at <http://www.edp.com.br/distribuicao-es/saiba-mais/informativos/tarifas-aplicadas-a-clientes-atendidos-em-alta-e-media-tensao-grupo-a>

⁽⁵⁴⁾ Available at <https://www.aneel.gov.br/>

⁽⁵⁵⁾ Available at <http://www.aneel.gov.br/bandeiras-tarifarias>

⁽⁵⁶⁾ Available at <http://www.edp.com.br/distribuicao-es/saiba-mais/informativos/bandeira-tarifaria>

⁽⁵⁷⁾ <http://www.jornalminasgerais.mg.gov.br/autenticidade> under the following numbers: 320200406203909022, 320200406203909023, 320200406203909024 and 320200406203909025.

- (117) Second, to arrive at the undistorted costs of production, the Commission added the percentage of the manufacturing overheads determined as described in recital (111) to the undistorted costs of manufacturing.
- (118) Finally, in addition to the cost of production established as described in recitals (115) to (116), the Commission applied the SG&A and profit in the representative country established as explained in recital (112). The SG&A and profit expressed as a percentage of COGS and applied to the undistorted costs of production amounted to 7,5 % and 14,5 % respectively.
- (119) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. Due to the fact that no exporting producers cooperated, the normal value was established on a countrywide basis.

3.1.2.3. Export price

- (120) In the absence of cooperation by the Chinese exporting producers, the export price was determined based on CIF Eurostat data corrected to ex-works level. Thus, the CIF export price was reduced by the sea freight and insurance costs ⁽⁵⁸⁾ and domestic transport cost in China ⁽⁵⁹⁾.

3.1.2.4. Comparison and dumping margin

- (121) The Commission compared the constructed normal value for one product type (see recital (115)), established in accordance with Article 2(6a)(a) of the basic Regulation, with the export price as established above.
- (122) On that basis, the weighted average dumping margin for imports from China, expressed as a percentage of the CIF Union frontier price, duty unpaid, amounted to 17,9 %.

3.1.2.5. Conclusion

- (123) The Commission concluded that imports of the product under review from China were dumped during the review investigation period. However, the volume of imports in question was limited, accounting to 1,8 % of total imports and corresponding to 0,4 % market share. Therefore, the Commission investigated also the likelihood of continuation of dumping.

3.1.3. *Likelihood of continuation of dumping should the measures be allowed to lapse.*

- (124) Further to the finding of dumping during the review investigation period, the Commission investigated the likelihood of continuation of dumping should the measures be allowed to lapse, in accordance with Article 11(2) of the basic Regulation. The following additional elements were analysed: the production capacity and spare capacity in the PRC, the attractiveness of the Union market and the relation between export prices to third countries and the price level in the Union.

3.1.3.1. Production capacity and spare capacity in the PRC

- (125) Given the non-cooperation of the GOC and Chinese producers, the production capacity and spare capacity in the PRC were established on the basis of facts available and in particular the information provided by the applicant, in accordance with Article 18 of the basic Regulation.
- (126) According to the applicant, the production capacity in the PRC substantially exceeds the current production volumes and internal demand on the Chinese market. Therefore, the Commission considered the discrepancy between the production capacity and the actual production and demand on the Chinese market as shown below to be representative for the product under review.

⁽⁵⁸⁾ On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – China-the Netherlands. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

⁽⁵⁹⁾ On the basis of quotation for Tianjin port – Beijing deliveries as provided by World Bank <https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf> p. 88.

- (127) According to the data provided in the request, the production of SSCR in the PRC during the review investigation period amounted to 16 million tonnes, while the apparent consumption amounted to 14,8 million tonnes and the production capacity was at 18,0 million tonnes. According to the applicant, the spare production capacity of the product under review in the PRC thus amounted to 2 million tonnes which represented 62,5 % of the Union consumption of SSCR in the review investigation period, and the production capacity increased by 64 % from 11,0 million tonnes in the previous proceeding (2013) to 18,0 million tonnes in the RIP.
- (128) Based on the above, the Commission concluded that the Chinese exporting producers have significant capacities, which they could use to produce SSCR to export to the Union if the measures were allowed to lapse.

3.1.3.2. Attractiveness of the Union market

- (129) There is a wide range of trade defence measures and other import restrictions in force against exports of SSCR originating in the PRC. According to Global Trade Alert, anti-dumping measures are applied in Brazil, Canada, Malaysia, Mexico, Taiwan, Thailand, United Kingdom, USA, and Vietnam, and countervailing duties are applied in the USA. Those measures not only demonstrate that the unfair trade practices of the Chinese SSCR producers continue, but they also limit the access of Chinese producers to the above listed markets.
- (130) Moreover, the Union market is a very large market, with a total annual consumption of over 3,2 million tonnes during the review investigation period, representing 62,5 % the Chinese spare capacity.
- (131) Considering the trade defence measures on other markets and the Union market size, the Commission concluded that the Union market is an attractive market for Chinese producers of SSCR and that it is likely that they would (re-)direct exports towards the Union should the current measures be allowed to lapse.

3.1.3.3. Relationship between export prices to third countries and the export price level to the Union

- (132) As there was no cooperation from Chinese producers, the Commission used the relevant country specific GTA ⁽⁶⁰⁾ import statistics to analyse the Chinese export prices to the Union and to third countries.
- (133) The Commission identified the six biggest importers of SSCR from the PRC during the review investigation period: South Korea, Russia, Vietnam, Turkey, India and Indonesia. They represented 36 % of the Chinese exports of the product under review during the review investigation period.
- (134) The Commission compared these respective export prices with the Chinese export price to the Union on an ex-works basis. The Commission found that Chinese export prices to these six countries were on average [19 %-37 %] lower than average Chinese sales prices to the European Union.
- (135) On that basis, the Commission concluded that the price level difference between Chinese export prices to the Union, on the one hand, and Chinese export prices to their other main export markets is a clear incentive for Chinese exporting producers to intensify the dumping practised on the Union market.

3.1.3.4. Conclusion on the likelihood of continuation or recurrence of dumping

- (136) The investigation showed that Chinese imports continued to enter the Union market at dumped prices during the review investigation period.
- (137) Moreover, the Commission found that sales by the Chinese exporting producers to their most important export markets are made at considerably lower prices than to the Union, and that a large number of other countries have imposed trade defence measures against Chinese exports of SSCR.

⁽⁶⁰⁾ <https://connect.ihsmarkit.com/gta/data-extracts>

- (138) Further to the above, the Commission found that the spare capacity in China alone accounts for more than 60 % of Union consumption during the review investigation period and that the Union market is very attractive to Chinese exporting producers in view of its size and prices.
- (139) Consequently, in view of the continued dumping during the review investigation period, the pricing behaviour of the Chinese exporters in third markets, the existing spare capacity in PRC, the size of the Union market and the prevailing prices on that market and trade defence measures and other import restrictions in force against exports of SSCR originating in the PRC on another important markets, the Commission concluded that there is a strong likelihood that dumping from PRC would continue and in any event would recur with significantly increased volumes, should the measures be allowed to lapse.

3.2. Taiwan

3.2.1. Preliminary remarks

- (140) During the review investigation period, imports of the product under review from Taiwan continued at around the same levels as in the investigation period of the original investigation (i.e. from 1 January 2013 to 31 December 2013). According to Eurostat, imports of SSCR from Taiwan represented a market share of 5,3 % of the Union market in the review investigation period compared to 5,1 % market share during the original investigation. In absolute terms, the level of imports from Taiwan slightly fell from 169 097 tonnes in the investigation period of the original investigation to 165 540 tonnes in the RIP.
- (141) As indicated in recital (24), none of the exporters/producers from Taiwan cooperated in the investigation. Thus, the exporting producers failed to submit questionnaire replies, including any data on export prices and costs, domestic prices and costs, consumption of inputs in the production process, manufacturing overheads, capacity, production, investments, etc.
- (142) Therefore, the Commission informed the authorities of Taiwan that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to Taiwan. The Commission did not receive any comments.
- (143) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to Taiwan were based on facts available, in particular the information contained in the request for the expiry review, combined with other sources of information, such as trade statistics on imports and exports (Eurostat and GTA).

3.2.2. Continuation of dumping of imports during the review investigation period

3.2.2.1. Normal value

- (144) As mentioned in recitals (140)-(142) above, the non-cooperation from exporting producers in Taiwan forced the Commission to use facts available in establishing the normal value. To this end, the information submitted by the applicant was used.
- (145) To establish the normal value, the Commission used the adjusted average Taiwanese domestic selling prices of different grades and dimensions of SSCR in 2019, as provided by the applicant based on market intelligence. According to the applicant, these prices needed to be adjusted to a profitable level as domestic sales prices in Taiwan were deemed loss-making given the price pressure from significant imports penetrating the Taiwanese market.

- (146) The Commission found that the applicant's assumption that domestic sales prices in Taiwan were loss-making and therefore needed to be adjusted reasonable, as it was supported not only by the fact that imports increasingly penetrated the Taiwanese market but also because the largest Taiwanese producer of the product under review reported an overall loss in its 2019 annual report ⁽⁶¹⁾.
- (147) In accordance with Article 2(3) of the basic Regulation, normal value was therefore constructed by adding to the loss making sales price, which is deemed to include cost of production and selling, general and administrative ('SG&A') expenses incurred by the not cooperating exporting producer on domestic sales of the like product, a reasonable profit. In the absence of any other reliable and verified profit the Commission used the profit claimed by the applicant, i.e. 6 %. The Commission had no indication that this profit would exceed the normal profit margin realised by an exporting producer.

3.2.2.2. Export price

- (148) Due to the non-cooperation from the exporting producers in Taiwan, the Commission had to use facts available in establishing the export price.
- (149) Therefore, the export price was determined based on prices of Taiwanese exports of the product under review as reported in Eurostat. Exports from Chia Far Industrial Factory Co., Ltd, the sole Taiwanese producer with a 0 % AD duty and thus formally excluded from the proceeding, were excluded from this calculation. Those imports represented in volume less than 10 % of imports from Taiwan. The CIF Eurostat prices thus obtained were adjusted to ex-works level by deducting freight and insurance costs and domestic transport cost in Taiwan ⁽⁶²⁾.

3.2.2.3. Comparison

- (150) The Commission compared the normal value and the export price of the product under review on an ex-works basis.
- (151) The above comparison showed a countrywide dumping margin for the exports from Taiwan to the Union, expressed as a percentage of the CIF value, of 12 %. It was therefore concluded that dumping continued during the review investigation period.

3.2.2.4. Conclusion

- (152) The Commission therefore concluded that dumping from Taiwan continued during the review investigation period. The Commission further notes that dumped exports were made at significant volumes, representing 5,3 % of the Union market during the review investigation period.

3.2.3. *Likelihood of continuation of dumping should measures be allowed to lapse*

- (153) The Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of continuation of dumping, should the measures be allowed to lapse. The following additional elements were analysed: the production capacity and spare capacity in Taiwan, the attractiveness of the Union market and the relation between export prices to third countries and the price level in the Union.

3.2.3.1. Production capacity and spare capacity in Taiwan

- (154) According to data provided by the applicant, the spare capacities of Taiwanese producers amounted to 638 000 tonnes in 2019, which correspond to a market share of 18,5 % in the Union.

⁽⁶¹⁾ https://www.dnb.com/business-directory/company-profiles.yieh_united_steel_corporation.19b5298d581ade1c2273b1ac84f5230c.html#financials-anchor

⁽⁶²⁾ On the basis of the publicly available data in the Taiwan Doing Business Report 2020 (page 264 of the annexes part 2 of the request), an overall cost of 105,70 EUR/tonne was deducted from CIF to ex-works level.

- (155) Based on the above, the Commission concluded that the Taiwanese exporting producers have considerable spare capacities, which they could use to export the product under review to the Union if measures were allowed to lapse.

3.2.3.2. Attractiveness of the Union market

- (156) The investigation established that in terms of size, the Union is, with a total consumption of more than 3,2 million tonnes during the review investigation period (see recital (172)), the second largest single market for the product under review, only after China. Its size is an important factor contributing to its attractiveness.
- (157) In spite of the anti-dumping measures in place, Taiwanese exporting producers continued to sell significant volumes of SSCR to the Union market, making it by far its most important export market (see recital (160)). That fact also demonstrates that the Union market is an important and interesting destination for the Taiwanese industry.
- (158) These factors demonstrate that the Union is an attractive export market for Taiwanese exporting producers.

3.2.3.3. Relationship between export prices to third countries and the price level in the Union

- (159) In the absence of cooperation from the Taiwanese exporting producers, the comparison of Taiwanese export prices to the Union with Taiwanese export prices to other export markets during the review investigation period was based on data from GTA.
- (160) In the review investigation period, according to the GTA database, the Union was Taiwan's most important export market (22 % of exports). The second important export destination for Taiwan was Turkey (7 % of exports), followed by 11 countries which each represented 3 %-6 % of Taiwanese exports. The Commission found that Taiwanese export prices to Turkey as well as some of these 11 countries were (sometimes significant) below export prices to the Union.
- (161) The constant and still significant market share of Taiwanese exports in the Union during the RIP confirms that price levels to the Union were attractive.
- (162) On that basis, the Commission concluded that the price level difference between Taiwanese export prices to the Union, on the one hand, and Taiwanese export prices to their other main export markets is a clear incentive for Taiwanese exporting producers to further increase the dumping practised on the Union market in the review investigation period.

3.2.3.4. Conclusion on the likelihood of continuation of dumping

- (163) The investigation showed that Taiwanese exports continued to enter the Union market at dumped prices during the review investigation period.
- (164) Furthermore, the Commission found that the spare capacity in Taiwan is rather significant and corresponds to 18,5 % of the total Union consumption during the review investigation period.
- (165) Moreover, the attractiveness of the Union market was demonstrated by the fact that it is one of the largest markets worldwide and that Taiwanese exporting producers continued to sell significant volumes on that market in spite of the measures in place
- (166) In addition, the investigation showed that prices of Taiwanese exports to several important third country markets were well below Taiwanese sales prices to the Union.
- (167) In view of the above, the Commission concluded that there is a strong likelihood that dumping from Taiwan would continue and that there will be a likely significant increase of imports at dumped prices should the measures be allowed to lapse.
- (168) Consequently, the Commission concluded that there was a likelihood of continuation of dumping, if measures were not extended.

4. INJURY

4.1. Definition of the Union industry and Union production

- (169) The like product was manufactured by 13 known producers in the Union during the review investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (170) The total Union production during the review investigation period was established at around 3,1 million tonnes. The Commission established this figure on the basis of all the available information concerning the Union industry, namely the remotely cross-checked questionnaire replies received from Eurofer and the sampled Union producers.
- (171) As indicated in recital (13), three Union producers were selected in the sample, representing over 60 % of total Union production of the like product. They are all vertically integrated producers.

4.2. Union consumption

- (172) The Commission established the Union consumption on the basis of: (a) the cross-checked Eurofer data concerning Union industry's sales of the like product to unrelated customers, whether direct or indirect sales, partially cross-checked with the sampled Union producers; and (b) imports of the product under review from all third countries as reported in Eurostat.
- (173) The Union consumption over the period considered developed as follows:

Table 2

Union consumption (tonnes)

	2017	2018	2019	RIP
Union consumption	3 691 581	3 725 022	3 450 240	3 197 395
<i>Index</i>	100	101	93	87

Source: Eurofer, sampled Union producers and Eurostat

- (174) During the period considered, the Union consumption decreased by 13 %.

4.3. Imports from the countries concerned

4.3.1. Volume and market share of the imports from the countries concerned

- (175) The Commission established the volume of imports from the countries concerned on the basis of Eurostat statistics. The market share of the imports was established based on of the Union consumption as set out in recital (171).
- (176) Imports from the countries concerned over the period concerned developed as follows:

Table 3

Import volumes (tonnes) and market share

	2017	2018	2019	RIP
PRC	7 543	7 493	9 816	12 546
<i>Index</i>	100	99	130	166
Market share	0,2 %	0,2 %	0,3 %	0,4 %
<i>Index</i>	100	98	139	192
Taiwan	194 430	213 577	178 758	159 110

<i>Index</i>	100	110	92	82
Market share	5,3 %	5,7 %	5,2 %	5,0 %
<i>Index</i>	100	109	98	94
Total countries concerned	201 973	221 070	188 574	171 656
<i>Index</i>	100	109	93	85
Market share	5,5 %	5,9 %	5,5 %	5,4 %
<i>Index</i>	100	108	100	98

Source: Eurostat

- (177) Imports from the PRC were very low throughout the period considered albeit they increased in the period considered by 66 % and doubled their market share.
- (178) Imports from Taiwan showed an increase of 10 % from 2017 to 2018, but decreased from 2018 to the RIP with 28 percentage points, keeping a market share of around 5,5 % during the period considered.
- (179) The imports from one Taiwanese exporting producer found not to be dumping in the original investigation, as explained in recital (4), were deducted from the dumped imports in the injury analysis. For confidentiality reasons the volume and market share of these imports cannot be disclosed, however they were found to be of a very small volume, with a market share significantly below 1 %, and did not affect the trend of the development of the volume and the market share of the imports from the countries concerned during the period considered.

4.3.2. Prices of the imports from the countries concerned and price undercutting

- (180) The Commission established the prices of imports on the basis of Eurostat data.
- (181) The weighted average price of imports from the countries concerned during the period considered developed as follows:

Table 4

Prices of the imports from the countries concerned (EUR/tonne)

	2017	2018	2019	RIP
PRC	2 376	2 352	2 293	2 228
<i>Index</i>	100	99	96	94
Taiwan	1 658	1 749	1 687	1 657
<i>Index</i>	100	106	102	100

Source: Eurostat

- (182) Regarding imports from Taiwan, an increase of the average unit price was observed between 2017 and 2018, however between 2018 and the review investigation period the price of imports from Taiwan returned to its 2017 level. The average prices of imports from Taiwan were below the average prices of the Union industry throughout the whole period considered.
- (183) Due to its insignificant volume, the imports from the Taiwanese exporting producer found not to be dumping in the original investigation had no impact on the level and trend of the average unit price of imports from Taiwan.

- (184) The Chinese import price showed a decreasing trend during the period considered, resulting in a 6 % lower price in the review investigation period compared to the price at the beginning of the period considered. The average unit price of Chinese imports was higher than those of the Union industry, however the import volumes from the PRC were very small (i.e. 0,4 % in market share).
- (185) Since there was no cooperation from exporting producers in the PRC and Taiwan, the Commission determined price undercutting during the review investigation period by comparing:
- (a) the weighted average sales price of the three sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - (b) the corresponding weighted average prices of imports from the countries concerned to the Union market, established on a cost, insurance, freight (CIF) basis as reported in Eurostat, including the anti-dumping duty with appropriate adjustments for post-importation costs.
- (186) The imports from the Taiwanese exporting producer found not to be dumping in the original investigation, were excluded from this price undercutting calculation.
- (187) The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period.
- (188) The comparison showed for imports from Taiwan an average undercutting in the Union market during the review investigation period of 16,9 %, despite the antidumping duties applied.
- (189) The imports from the PRC did not undercut the prices of the Union market during the review investigation period, as the prices with antidumping duties were higher than Union industry prices. However, when looking at Chinese export prices to other third countries ⁽⁶³⁾, the latter did undercut the Union market by 29,3 %. Also, as explained in recital (249) the current import prices without anti-dumping duties, though still slightly higher than prices of the Union industry ⁽⁶⁴⁾, would result to an underselling margin of 6,7 %.

4.4. Imports from third countries other than the PRC and Taiwan

- (190) The imports of the product under review from third countries other than the PRC and Taiwan were mainly from Korea, India and Indonesia.
- (191) The volume of imports as well as the market share and price trends for imports of the product under review from other third countries developed as follows:

Table 5

Imports from third countries

Country		2017	2018	2019	RIP
Republic of Korea	Volume (tonnes)	147 695	165 812	160 947	164 429
	<i>Index</i>	100	112	109	111
	Market share	4,0 %	4,5 %	4,7 %	5,1 %
	<i>Index</i>	100	111	117	129
India	Average price (EUR/tonne)	1 858	1 944	1 860	1 855
	<i>Index</i>	100	105	100	100
	Volume (tonnes)	114 508	120 631	105 251	108 777
	<i>Index</i>	100	105	92	95

⁽⁶³⁾ Export data from Global Trade Atlas.

⁽⁶⁴⁾ Negative undercutting margin of 4 %.

	Market share	3,1 %	3,2 %	3,1 %	3,4 %
	<i>Index</i>	100	104	98	110
	Average price (EUR/tonne)	2 079	2 173	2 075	2 073
	<i>Index</i>	100	104	100	100
Indonesia	Volume (tonnes)	13 830	34 648	72 739	89 131
	<i>Index</i>	100	251	526	644
	Market share	0,4 %	0,9 %	2,1 %	2,8 %
	<i>Index</i>	100	248	563	744
	Average price (EUR/tonne)	1 818	1 923	1 917	1 962
	<i>Index</i>	100	106	105	108
Other third countries	Volume (tonnes)	478 128	471 816	392 470	332 866
	<i>Index</i>	100	99	82	70
	Market share	13 %	13 %	11 %	10 %
	<i>Index</i>	100	98	88	80
	Average price (EUR/tonne)	2 267	2 865	2 940	2 978
	<i>Index</i>	100	126	130	131
Total of all third countries except the countries concerned	Volume (tonnes)	754 161	792 907	731 407	695 203
	<i>Index</i>	100	105	97	92
	Market share	20 %	21 %	21 %	22 %
	<i>Index</i>	100	104	104	106
	Average price (EUR/tonne)	2 150	2 205	2 096	2 091
	<i>Index</i>	100	103	97	97

Source: Eurostat

(192) Imports from Korea increased in the period considered, resulting in an increase in its market share from 4,0 % in 2017 to 5,1 % in the RIP. However, prices of Korean imports were around 9 % above those from the countries concerned ⁽⁶⁵⁾ during the whole period considered.

(193) Imports from India increased from 2017 to 2018, but showed a drop afterwards. This resulted in an overall drop in absolute terms during the period considered. However, the drop in Indian imports was less severe than the overall drop in Union consumption and thus India's market share still increased from 3,1 % in 2017 to 3,4 % in the RIP.

(194) Indonesia increased its import volumes almost 6½ times in the period considered and its market share increased from 0,4 % to 2,8 %.

⁽⁶⁵⁾ Compared to the weighted average import price of the PRC and Taiwan.

- (195) As explained in recital (8), imports of SSCR originating in India and Indonesia are subject to a parallel antidumping investigation ⁽⁶⁶⁾ and were provisionally found ⁽⁶⁷⁾ to be dumped and to undercut the prices of the Union industry.
- (196) Imports from other third countries decreased in the period considered both in terms of absolute volumes and market share. The average sales prices of imports from other third countries were consistently higher in the period considered than the weighted average import prices from the countries concerned and the sales prices of the Union producers.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (197) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (198) As mentioned in recital (13), sampling was used for the determination of possible injury suffered by the Union industry.
- (199) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data from the questionnaire reply of Eurofer relating to all Union producers, cross-checked where necessary with the questionnaire replies from the sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies of the sampled Union producers. Both sets of data were cross-checked remotely and found to be representative of the economic situation of the Union industry.
- (200) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (201) The microeconomic indicators are: average unit prices, unit cost, labour costs, stocks, profitability, cash flow, investments and return on investments.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

- (202) The total Union production, production capacity and capacity utilisation developed over the period considered as follows:

Table 6

Production, production capacity and capacity utilisation

	2017	2018	2019	RIP
Total Union production (tonnes)	3 708 262	3 640 429	3 379 817	3 111 804
<i>Index</i>	100	98	91	84
Production capacity (tonnes)	4 405 623	4 517 379	4 530 146	4 572 365
<i>Index</i>	100	103	103	104
Capacity utilisation	84 %	81 %	75 %	68 %
<i>Index</i>	100	96	89	81

Source: Eurofer

⁽⁶⁶⁾ Notice of Initiation of an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia (OJ C 322, 30.9.2020, p. 17).

⁽⁶⁷⁾ Commission Implementing Regulation (EU) 2021/854 of 27 May 2021 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia (OJ L 188, 28.5.2021, p. 61).

- (203) The Union industry's production volume decreased sharply by 16 % in the period considered. The reported capacity figures refer to actual capacity, which implies that adjustments considered as standard by the industry – for set-up time, maintenance, bottle necks and other normal stoppages – have been taken into account. After the imposition of the original measures, some Union producers initiated the modernisation of their production capacity. This modernisation has led to a slight production capacity increase of 4 % over the period considered.
- (204) As a result of decreased production and slightly increased capacity, capacity utilisation decreased by 19 % over the period considered and dropped below 70 % in the RIP.

4.5.2.2. Sales volume and market share

- (205) The Union industry's sales volume and market share developed over the period considered as follows:

Table 7

Sales volume and market share

	2017	2018	2019	RIP
Union industry sales volumes (tonnes)	2 735 448	2 711 044	2 530 259	2 330 537
<i>Index</i>	100	99	92	85
Market share	74,1 %	72,8 %	73,3 %	72,9 %
<i>Index</i>	100	98	99	98

Source: Eurofer and Eurostat

- (206) The Union industry's sales volume decreased by 15 % over the period concerned. This resulted also in decrease in market share by 1,2 percentage point in the period considered.

4.5.2.3. Growth

- (207) The above figures in respect of production and sales volume in absolute terms, which show a clear decreasing trend over the period considered, demonstrate that the Union industry was not able to grow in absolute terms. A slight growth in relation to consumption was possible only because the Union industry chose to respond to the price pressure of the dumped imports by lowering its sales prices.

4.5.2.4. Employment and productivity

- (208) Employment and productivity developed over the period considered as follows:

Table 8

Employment and productivity

	2017	2018	2019	RIP
Number of employees	13 411	13 495	13 968	13 660
<i>Index</i>	100	101	104	102
Productivity (tonnes per staff)	277	270	242	228
<i>Index</i>	100	98	88	82

Source: Eurofer

- (209) The level of Union industry employment related to the production of SSCR increased by 4 % between 2017 and 2019 and showed a decrease of 2 percentage points between 2019 and RIP, resulting in an increase of 2 % over the period considered. In view of the sharp decrease in production, the productivity of the Union industry's workforce, measured as tonnes per employee (in full time equivalent) produced per year, decreased significantly by 18 % over the period considered.

4.5.2.5. Magnitude of the dumping margin and recovery from past dumping

- (210) The Commission concluded in recitals (123) and (152) that dumping from the countries concerned continued during the review investigation period. The Commission also concluded that there was a likelihood of recurrence of dumping from the PRC and Taiwan, if measures would not be extended.
- (211) Furthermore, in the parallel anti-dumping procedure concerning imports of the SSCR from India and Indonesia, the Commission provisionally established that the situation of the Union industry was also significantly affected by dumped imports from those countries.
- (212) The macroeconomic indicators examined above show that, notwithstanding the anti-dumping measures in force since 2015, the economic situation of the Union industry has remained injurious. Thus, no recovery from the past dumping could be established and the Union industry remains highly vulnerable to the injurious effects of any dumped imports in the Union market.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

- (213) The weighted average unit sales prices of the sampled Union producers to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices in the Union

	2017	2018	2019	RIP
Average unit sales price (EUR/tonne)	2 252	2 312	2 206	2 175
<i>Index</i>	100	103	98	97
Unit cost of production (EUR/tonne)	1 958	2 064	2 019	2 013
<i>Index</i>	100	105	103	103

Source: Sampled Union producers

- (214) After showing a slight increase of 3 % from 2017 to 2018, average unit sales prices decreased by 6 percentage points from 2018 to the RIP, resulting in a decrease of 3 % over the period considered. Over the same period, the costs of production showed a simultaneous increase of 5 %, after which they stabilised at a cost level which was 3 % higher than at the start of the period considered. To a large extent the cost evolution was driven by important raw material price increases, such as nickel and ferrochromium. Due to the price suppression from the dumped imports from Taiwan the Union industry was not able to pass on this cost increase to its sales prices and was even forced to lower its sales prices.

4.5.3.2. Labour costs

(215) The average labour costs of the sampled Union producers developed over the period considered as follows:

Table 10

Average labour costs per employee

	2017	2018	2019	RIP
Average labour costs per FTE (EUR)	72 366	70 663	71 659	70 324
<i>Index</i>	100	98	99	97

Source: Sampled Union producers

(216) The average labour costs per employee of the sampled Union producers fell by 3 % in the period considered. This shows that Union producers were able to lower labour costs as a reaction to the deteriorating market circumstances in an attempt to limit their injury.

4.5.3.3. Inventories

(217) Stock levels of the sampled Union producers developed over the period considered as follows:

Table 11

Inventories

	2017	2018	2019	RIP
Closing stocks (tonnes)	125 626	148 777	125 480	98 835
<i>Index</i>	100	118	100	79
Closing stocks as a percentage of production	5,54 %	6,53 %	6,09 %	5,13 %
<i>Index</i>	100	118	110	93

Source: Sampled Union producers

(218) During the period considered the level of closing stocks decreased by 21 %. This trend followed the decrease in production volume. Most types of the like product are produced by the Union industry based on specific orders of the users. Therefore, stocks are not considered to be an important injury indicator for this industry. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen above, this indicator fluctuated between 5 and 7 % of the production volume of the sampled Union producers over the period considered.

4.5.3.4. Profitability, cash flow, investments, return on investments and ability to raise capital

(219) Profitability, cash flow, investments and return on investments of the sampled Union producers developed over the period considered as follows:

Table 12

Profitability, cash flow, investments, return on investments

	2017	2018	2019	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	7,6 %	6,0 %	1,5 %	0,4 %
<i>Index</i>	100	79	19	6

Cash flow (EUR)	387 200 359	273 674 277	237 840 311	184 024 688
<i>Index</i>	100	71	61	48
Investments (EUR)	111 578 442	111 637 871	96 541 925	96 585 152
<i>Index</i>	100	100	87	87
Return on investments	20 %	15 %	6 %	4 %
<i>Index</i>	100	75	31	20

Source: Sampled Union producers

- (220) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (221) Overall profitability fell from 7,6 % in 2017 to 0,4 % in the RIP. All other financial indicators, i.e. cash flow, investments, and return on assets, clearly followed the same downward trend.
- (222) The net cash flow is the ability of the Union producers to self-finance their activities. The cash flow showed a continuous decrease over the period considered, resulting in the RIP at a level 52 % lower than the start of the investigation period.
- (223) Investments are the net book value of assets. After staying stable from 2017 to 2018, a sharp drop of 13 percentage points can be seen from 2018 to 2019. The return on investments is the profit in percentage of the net book value of investments which reflects the level of depreciation of assets. It decreased continuously and significantly by 80 % over the period considered.
- (224) The poor financial performance of the Union industry between 2017 and the review investigation period limited its ability to raise capital. The Union industry is capital intensive and is characterised by substantial investments. The return on investment during the period considered is not sufficient to cover for such substantial investments.

4.6. Conclusion on continuation of injury

- (225) The evolution of the micro and macro indicators during the period considered showed that the financial situation for the Union industry deteriorated.
- (226) The investigation indicated that the Union industry could only respond to the price pressure of the dumped imports from Taiwan by lowering its sales prices to maintain (and even slightly increase) its market share in the period considered. Prices of the Union industry decreased by 3 % during the period considered, while, under conditions of fair competition, they would have been expected to increase at a ratio comparable to rise of the cost of production, which increased by 3 %. This situation severely impacted the Union industry's profitability, which fell by 94 % over the period considered to end in a very low and unsustainable level during the RIP.
- (227) The Union consumption decreased significantly during the period considered and both sales volumes and production volumes on the Union industry followed this trend. Production capacity increased marginally, caused by a positive outlook for the Union industry following the imposition of the original measures.
- (228) Nevertheless, Union producers experienced a sharp decrease in productivity and capacity utilisation in the period considered. These deteriorating figures can only be explained to a small degree by the small increase in employment and capacity and was mainly caused by the decrease in Union consumption and the simultaneous increase in dumped imports.

- (229) However, it is the financial indicators of the Union producers which fully show the injury suffered. The Union industry experienced an increase in its costs of production in the period considered which, accompanied by a decrease in sales prices, resulted in a profitability drop from 7,6 % in 2017 to 0,4 % in the RIP. A similar negative development can be seen in relation to the other financial indicators: investments (– 13 %), return on investments (– 80 %) and cash flow (– 52 %).
- (230) Accordingly, the injury indicators show that the Union industry was suffering material injury in the RIP, as it decreased its sales prices in spite of rising production costs, resulting in a collapse of its profitability, which negatively affected investments, return on investments and cash flow.
- (231) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

- (232) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries concerned caused material injury to the Union industry.

5.1. PRC

- (233) Regarding the PRC, the investigation revealed that the volume of imports remained below *de minimis* level during the entire period considered. Furthermore, prices of Chinese imports were during the entire period considered higher than prices of the Union industry and did not undercut the prices of the Union industry.
- (234) Considering the above, the Commission concluded that the material injury suffered by the Union industry could not have been caused by the imports from China.

5.2. Taiwan

- (235) Regarding Taiwan, the Commission concluded that continued price suppression from dumped imports is a crucial factor adversely affecting economic situation of the Union industry.
- (236) Apart from dumped imports from India and Indonesia, dumped imports from Taiwan, due to their volume, markets share, and low prices, are affecting price behaviour of the European industry.
- (237) In response for the price competition of Taiwanese exporting producers, the European industry had to decrease its sales prices, which adversely affected its profitability and other financial indicators. Moreover, even with this decrease of prices, the Union producers still could not compete with the prices of the Taiwanese exporters, which, despite the antidumping measures in force, were lower than prices of the Union industry in the entire period considered.
- (238) Considering the above, the Commission concluded that the material injury suffered by the Union industry was caused by the imports from Taiwan.
- (239) Following final disclosure, LSI and Euranimi claimed that imports from Taiwan cannot have caused injury to the Union industry as its market share was stable and comparable with the market share of Korea which was not part of this investigation.
- (240) However, imports from Taiwan, despite similar volumes and market share as imports from Korea, were priced significantly lower than the latter. Imports from Taiwan continued also to be dumped, undercut Union industry prices and their prices were set at an injurious level even with the current measures in force. Undercutting and underselling margins are expected to further increase should the measures lapse.
- (241) Therefore, the claim of the parties was rejected.

6. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF INJURY

- (242) The Commission concluded in recital (231) that the Union industry suffered material injury during the review investigation period. In recital (238), the Commission also determined that the material injury suffered by the Union industry was caused by imports from Taiwan. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by imports from China, and continuation of injury caused by imports from Taiwan, if the measures were allowed to lapse.
- (243) In order to establish whether there is likelihood of continuation and/or recurrence of injury originally caused by the dumped imports from the countries concerned, the Commission considered the following elements: (1) spare capacity in the countries concerned and the attractiveness of the Union market, and (2) the impact of potential imports and price levels of such imports from these countries on the Union industry's situation should the measures be allowed to lapse.

6.1. PRC

6.1.1. Spare capacity

- (244) As described in recital (126), the exporting producers in the PRC have significant spare capacity, which substantially exceeds the current production volumes and internal consumption in this country. This spare capacity, which amounts to 62,5 % of the total Union consumption in the RIP, could be used to export to the Union if measures were allowed to lapse.

6.1.2. Attractiveness of the Union market

- (245) The Chinese exporting producers exported to their main third markets at prices, which are around 30 % lower than both their export prices to the Union and the average sales prices of the Union producers on the Union market.
- (246) Therefore, taking into account the price level of exports from the PRC to other third markets, exporting to the Union is potentially much more attractive for the Chinese exporters. Furthermore, if following the parallel anti-dumping investigation definitive measures are imposed on imports from India and Indonesia, prices on the Union market are expected to increase to a fair level, further increasing the attractiveness of the Union market. Moreover, in this situation, the Chinese exporting producers would encounter less price competition from Indian and Indonesian exporters on the European market.
- (247) Consequently, it can be reasonably expected that, should the measures lapse, Chinese exporting producers would significantly increase volumes of dumped imports of the product under review to the Union. This expectation is further reinforced by the availability of substantial spare capacity in the PRC.

6.1.3. Impact of potential imports from the PRC on the Union industry's situation should the measures lapse

- (248) The Commission examined the likely price levels of imports from the PRC should the measures be allowed to lapse based on the import price level during the RIP and export prices to third countries, and their effect on the situation of the Union industry.
- (249) As indicated in recital (233), the prices of the Chinese imports in the RIP with current anti-dumping duties included were higher than the prices of the Union industry and their level was not injurious ⁽⁶⁸⁾. Nevertheless, the current import prices without anti-dumping duties, though still slightly higher than prices of the Union industry ⁽⁶⁹⁾, would result to an underselling margin of 7,1 % when compared to the target price established on the basis of the Union industry's cost of production during the RIP and a target profit of 8,7 %, as established during the parallel anti-dumping investigation against India and Indonesia ⁽⁷⁰⁾.

⁽⁶⁸⁾ Negative underselling margin of 18,6 % if compared to the target price in the parallel anti-dumping investigation against India and Indonesia.

⁽⁶⁹⁾ Negative undercutting margin of 4 %.

⁽⁷⁰⁾ Both investigations concerned the same product, have the same sample of Union producers, and the same investigation period and period considered.

- (250) Furthermore, the current relatively high level of prices of the Chinese exporters on the Union market concerns very limited volumes, of most probably high-end, specialized products, if they can be still be sold on the market, despite the antidumping duties of around 25 % ⁽⁷¹⁾. Therefore, Chinese prices in the export to third countries, where massive quantities are involved, seem to be more representative in the assessment of impact of potential imports from the PRC on the Union industry's situation should the measures lapse. The average Chinese export prices to the third countries, without antidumping duties on the Union border, would result in the underselling margin of 58,4 % when compared to the target price established on the basis of the EU's industry cost of production during the RIP and the target profit of 8,7 % established during the parallel investigation against India and Indonesia.
- (251) This shows that, should the measures be allowed to lapse, Chinese imports are likely to be made at injurious price levels, increasing the price pressure on the Union industry that would than either lose sales volume or be obliged to decrease their price levels.

6.1.4. Conclusion

- (252) In view of the above findings, namely the presence of spare capacity in the PRC, the attractiveness of the Union market and the expected price levels of imports from the PRC in the absence of antidumping measures and their impact on the Union industry, it is concluded that the absence of the measures would in all likelihood result in a significant increase of dumped imports from the PRC at injurious prices and material injury originally caused by dumped imports from the PRC would be likely to recur.
- (253) Following final disclosure, LSI and Euranimi claimed that the Commission did not provide sufficient evidence that imports from the PRC would re-appear at undercutting prices and would become injurious in the future.
- (254) Contrary to the claim of the parties, the Commission based its analysis on solid facts.
- (255) First, as explained in recital (121), even with their current relatively high level of prices, the Chinese exporters continued their dumping practice in the review investigation period.
- (256) Second, as explained in recital (249), the current level of Chinese export prices would already be injurious in the absence of the anti-dumping duties, i.e. having an injury margin of 7,1 % when compared to the target price of the Union producers.
- (257) Moreover, as explained in recital (250), this injury margin would rise to an alarming level of 58,4 % should the price level of Chinese exports to the Union decrease to the level of the Chinese export price to third countries. This price level to third countries could be considered much more representative than the current Chinese export price level to the Union, taking into account the very small volumes of the latter in the period considered.
- (258) Finally, recital (244) above showed the significant spare capacity for production of the product under review in the PRC, which could be used to export to the Union should the measures lapse.
- (259) Therefore, the claim of the parties was rejected.

6.2. Taiwan

6.2.1. Spare capacity

- (260) As described in recital (154), the exporting producers in Taiwan have a substantial spare capacity, which exceeds substantially the current production volumes and internal consumption in Taiwan. This spare capacity, which amounts to 18,5 % of the total Union consumption in the RIP, could be used for export to the Union if measures were allowed to lapse.

⁽⁷¹⁾ The exact structure of imports from the PRC is not known due to lack of the cooperation of Chinese exporting producers.

6.2.2. *Attractiveness of the Union market*

- (261) The Taiwanese export prices to third countries, even if slightly higher than Taiwanese export prices to the Union, were still found to be around 17 % lower than the Union producers' prices on the Union market.
- (262) Therefore, taking into account the price level on the Union market, exporting to the Union is potentially much more attractive for the Taiwanese exporters than exporting to other countries.
- (263) Furthermore, if definitive anti-dumping measures are imposed on imports from India and Indonesia, prices on the Union market are expected to increase to a fair level, further increasing the attractiveness of the Union market. Moreover, in this situation, the Taiwanese exporting producers would encounter less competition from Indian and Indonesian exporters on the European market.
- (264) Consequently, it can be reasonably expected that, should the measures lapse, Taiwanese exporting producers would significantly increase volumes of dumped imports of the product under review to the Union. This expectation is further reinforced by the availability of substantial spare capacity in Taiwan.

6.2.3. *Impact of potential imports from Taiwan on the Union industry's situation should the measures lapse*

- (265) The Commission examined the likely price level of imports from Taiwan should the measures be allowed to lapse based on the import price level during the RIP and their effect on the situation of the Union industry.
- (266) As indicated in recital (261), the prices of the Taiwanese imports in the RIP with current antidumping duties included were undercutting the prices of the Union industry by 16,9 %. The corresponding underselling margin amounted to 36,8 %, when compared to the target price established on the basis of the EU's industry cost of production during the RIP and a target profit of 8,7 % established during the parallel anti-dumping investigation against India and Indonesia. Without anti-dumping duties the margins in question would increase to 22,1 % for undercutting and 43,6 % for underselling.
- (267) This shows that, should the measures be allowed to lapse, Taiwanese imports would continue to be made at injurious price levels, increasing the price pressure on the Union industry that would either lose sales volume or would be obliged to decrease its price levels.

6.2.4. *Conclusion*

- (268) In view of the above findings, namely the presence of spare capacity in Taiwan, the attractiveness of the Union market and the expected price levels of imports from Taiwan in the absence of antidumping measures and their impact on the Union industry, it is concluded that a lapse of the current measures would in all likelihood result in a significant increase of dumped imports from Taiwan at injurious prices and material injury would be likely to continue.

7. UNION INTEREST

- (269) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, distributors and users.
- (270) All interested parties were given the opportunity to make their view known pursuant to Article 21(2) of the basic Regulation.

7.1. Interest of the Union industry

- (271) The Union industry consists of 13 producers located in several Member States and it employs directly 13 660 employees in relation to the product under review. None of the Union producers opposed the initiation of the investigation. As shown in section 4 above when analysing the injury indicators, the whole Union industry experienced a deterioration of its situation and was negatively affected by the dumped imports.
- (272) It is expected that the maintenance of anti-dumping duties will enable the Union industry to cover their increasing costs of production and improve their financial situation despite lost sales due to a shrinking market. This would result in an improvement of the Union industry's profitability towards levels considered necessary for this capital intensive industry. It is recalled that a number of key injury indicators showed a negative trend during the period considered. In particular, indicators pertaining to the financial performance of Union producers were seriously affected.
- (273) Although the anti-dumping measures in force prevented dumped imports from the countries concerned to enter the Union market to a large extent, the Union industry suffered material injury caused by imports at dumped prices from Taiwan during the review investigation period. Union industry's situation is likely to further deteriorate if the measures are not prolonged and the additional injury caused by dumped imports from China recurs.
- (274) The Commission established that there is still continuation of injury caused by the Taiwanese imports and a strong likelihood of recurrence of injury originally caused by imports from China should the measures expire. The influx of substantial volumes of dumped imports from the countries concerned would cause further injury to the Union industry. This would worsen the already very injurious situation of Union industry.
- (275) The Commission thus concluded that the maintenance of the anti-dumping measures against the countries concerned is in the interest of the Union industry.

7.2. Interest of unrelated importers, traders and users

- (276) The Commission contacted all known unrelated importers, traders and users. However, none of them replied to the questionnaire and cooperated in the expiry review.
- (277) After disclosure, Euranimi and LSI claimed that they are currently facing a shortage of supply of the product under review in the Union, caused by a worldwide shortage of supply of raw material. Moreover, the COVID-19 pandemic has caused an imbalance between supply and demand, causing a rise in prices and shortage of raw materials and SSCR. The safeguard measures on steel have further aggravated the shortage of SSCR.
- (278) Disruptions in the supply chain caused by the COVID-19 pandemic are of exceptional nature and are not specific to the SSCR supply chain. Table 5 above shows that there have been various sources of supply and the market share of imports from other third countries have even increased throughout the period considered, while the safeguard measures were already in place. Korea managed in the period considered to increase its export to the Union both in absolute and relative terms and also South Africa remained present on the Union market. Furthermore, despite the anti-dumping measures, imports from Taiwan still seem to be competitive, since they kept being imported to the Union during the period considered.
- (279) On this basis, the Commission concluded that the effects of extending the anti-dumping measures on importers and users do not outweigh the positive impact of the measures on the Union industry.

7.3. Conclusion on Union interest

- (280) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of the product under review originating in the countries concerned.

8. ANTI-DUMPING MEASURES

- (281) On the basis of the conclusions reached by the Commission concerning the continuation of dumping from countries concerned, the continuation and recurrence of injury originally caused by dumped imports from the countries concerned, and the Union interest, the Commission finds that the anti-dumping measures on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) from the PRC and Taiwan should be maintained.
- (282) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the PRC and Taiwan and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (283) A company may request the application of these individual anti-dumping duty rates if it subsequently changes the name of its entity. The request must be addressed to the Commission ⁽⁷³⁾. The request must contain all the relevant information enabling it to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the Official Journal of the European Union.
- (284) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures on imports of the product under review from the PRC and Taiwan be maintained. They were also granted a period to make representations subsequent to this disclosure. All comments received have been considered by the Commission.
- (285) In view of Article 109 of Regulation 2018/1046 ⁽⁷³⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first calendar day of each month.
- (286) By Commission Implementing Regulation (EU) 2019/159 ⁽⁷⁴⁾, the Commission imposed a safeguard measure with respect to certain steel products for a period of three years. By Commission Implementing Regulation (EU) 2021/1029 ⁽⁷⁵⁾, the safeguard measure was prolonged until 30 June 2024. The product under review is one of the product categories covered by the safeguard measure. Consequently, once the tariff quotas established under the safeguard measure are exceeded, both the above-quota tariff duty and the anti-dumping duty would become payable on the same imports. As such cumulation of anti-dumping measures with safeguard measures may lead to an effect on trade greater than desirable, the Commission decided to prevent the concurrent application of the anti-dumping duty with the above-quota tariff duty for the product under review for the duration of the imposition of the safeguard duty.
- (287) This means that where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to the product under review and exceeds the level of the anti-dumping duties pursuant to this Regulation, only the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected. During the period of concurrent application of the safeguard and anti-dumping duties, the collection of the duties imposed pursuant to this Regulation shall be suspended. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to the product under review and is set at a level lower than the level

⁽⁷²⁾ European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽⁷³⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁷⁴⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

⁽⁷⁵⁾ Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products (OJ L 225I, 25.6.2021, p. 1).

of the anti-dumping duties in this Regulation, the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher of the level of the anti-dumping duties imposed pursuant to this Regulation. The part of the amount of anti-dumping duties not collected shall be suspended.

(288) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in the People's Republic of China and Taiwan.

2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below, shall be as follows:

Country	Company	Anti-dumping duty (%)	TARIC additional code
PRC	Shanxi Taigang Stainless Steel Co., Ltd, Taiyuan City	24,4	C024
PRC	Tianjin TISCO & TPCO Stainless Steel Co Ltd, Tianjin City	24,4	C025
PRC	Other cooperating companies listed in Annex	24,6	
PRC	All other companies	25,3	C999
Taiwan	Chia Far Industrial Factory Co., Ltd, Taipei City	0	C030
Taiwan	All other companies	6,8	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, on which must appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of stainless steel cold rolled product sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (Taiwan/PRC). I declare that the information provided in this invoice is complete and correct.'. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

1. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to flat-rolled products of stainless steel, not further worked than cold-rolled (cold reduced) and exceeds the equivalent ad valorem level of the anti-dumping duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected.

2. During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.

3. Where the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 becomes applicable to flat-rolled products of stainless steel, not further worked than cold-rolled (cold reduced) and is set at a level lower than the equivalent ad valorem level of the anti-dumping duty set out in Article 1(2), the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher of the equivalent ad valorem level of the anti-dumping duty set out in Article 1(2).
4. The part of the amount of anti-dumping duty not collected pursuant to paragraph 2 shall be suspended.
5. The suspensions referred to in paragraphs 2 and 4 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Regulation (EU) 2019/159.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 September 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Chinese cooperating exporting producers not sampled:

Country	Name	TARIC additional code
PRC	Lianzhong Stainless Steel Corporation, Guangzhou	C026
PRC	Ningbo Qi Yi Precision Metals Co., Ltd, Ningbo	C027
PRC	Tianjin Lianfa Precision Steel Corporation, Tianjin	C028
PRC	Zhangjiagang Pohang Stainless Steel Co., Ltd, Zhangjiagang City	C029

CORRIGENDA

Corrigendum to Commission Decision (EU) 2021/1428 of 24 February 2020 ON THE STATE AID SA.31662 – C/2011 (ex NN/2011) implemented by Romania for Timișoara International Airport – Wizz Air (notified under document C(2021) 1065)*(Official Journal of the European Union L 308 of 1 September 2021)*

On page 59, in recital 417:

for: 'RON 2 326 million',

read: 'RON 2,326 million'.

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)



Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

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